IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3873 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT
and
Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : YES

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UNITED INSURANCE CO.LTD.

Versus

RANCHHODBHAI MULJIBHAI LIMBASIYA DECD.THRO'HIS HEIRS

Appearance:

MR PV NANAVATI for Petitioner No. 1
MR KISHOR M PAUL for Respondent No. 1/1-1/6
MR PRAVIN GONDALIYA for Respondent No. 3

CORAM : MR.JUSTICE Y.B.BHATT
and
MR.JUSTICE H.H.MEHTA

Date of decision: 18/09/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE Y.B.BHATT)

In this appeal we had issued notice for summary disposal, inasmuch as the appeal is pressed only on the question of interest awarded.

2. Today, we have heard learned Counsel for the appellant, as also learned Counsel for respondent Nos. 1

to 6, who are the original claimants.

3. Appeal admitted. Learned Counsel for the respondents - original claimants waives service of notice in the appeal. On a joint request of the learned Counsel, this appeal is taken up for final hearing today.

4. This is an appeal under Section 173 of the Motor Vehicles Act, 1988, challenging the judgement and award of the Motor Accident Claims Tribunal (Main), Rajkot in Motor Accident Claim Case No. 1155/95.

5. As observed hereinabove, this appeal is pressed only on the question of interest awarded to the claimants on the amount of compensation determined by the said awward.

6. The Tribunal has awarded interest on the amount of compensation at the rate of 12 per cent per annum from the date of the claim petition till realisation, subject to the condition that the opponents (in the claim petition) deposit the amount of compensation together with interest and costs before the Tribunal within 4 months from the date of the order. However, the same award contemplates that if the aforesaid amount of compensation together with interest and costs is not deposited within four months, the rate of interest applicable will be at the rate of 15 per cent per annum from the date of the petition, till realisation.

7. It is this aspect of the award namely - the rate of interest which is the subject matter of challenge in the present appeal.

8. Learned Counsel for the respective original claimants frankly concede that the rate of 15 per cent of interest on compensation amount is excessive, and that the Court may redetermine the appropriate rate of interest.

9. So far as the proper rate of interest is concerned, our attention is drawn to an earlier decision of this very Bench in First Appeal No. 6004 of 1999 dated 3rd September, 2001, whereby the rate of interest awardable on compensation determined under the provisions of Section 166/168 of the Act is concerned, the rate of 12 per cent has been approved.

10. Thus, on the facts of the case and in view of the aforesaid decision, we hold and direct that the impugned award is modified only to the extent that it awarded

penal interest at the rate of 15 per cent per annum on the amount of compensation. We therefore hold and direct that the original claimants shall be entitled to interest at the rate of 12 per cent per annum from the date of the claim petition, upto the date of realisation.

11. This appeal is therefore allowed to the aforesaid extent with no order as to costs. Decree accordingly.

(Y.B.Bhatt, J.) (H.H.Mehta, J.)

*/Mohandas